

LUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LISA O'LEARY, as Chairman of the
Board of Trustees of UFCW LOCAL
342 HEALTH CARE FUND, and TENISHA
WILLIAMSON, as Chairman of the
Board of Trustees of UFCW LOCAL
342 SAFETY EDUCATION, CULTURAL
FUND,

Petitioners,

MEMORANDUM & ORDER
14-CV-3918 (JS) (AKT)

-against-

CLASSIE TUXEDO, LTD, d/b/a
CLASSIE TUXEDO, INC.,

Respondent.

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APPEARANCES

For Petitioners: John H. Byington, III, Esq.
Paula A. Clarity, Esq.
Archer, Byington, Glennon & Levine, LLP
One Huntington Quadrangle, Suite 4C10
PO Box 9064
Melville, NY 11747

For Respondent: No appearances.

SEYBERT, District Judge:

Currently pending before the Court are: (1) Petitioners' motion for default judgment, (Docket Entry 11); and (2) Magistrate Judge A. Kathleen Tomlinson's Report and Recommendation ("R&R"), recommending that this Court grant the motion for default judgment, (Docket Entry 16). For the following reasons, the Court ADOPTS the R&R in its entirety.

BACKGROUND

Petitioners Lisa O'Leary, as Chairman of the Board of Trustees of UFCW Local 342 Health Care Fund, and Tenisha Williamson, as Chairman of the Board of Trustees of UFCW Local 342 Safety Education, Cultural Fund ("Petitioners") commenced this action on June 24, 2014, seeking to confirm an arbitration award rendered in connection with a collective bargaining agreement between non-party union UFCW Local 342 and respondent Classie Tuxedo d/b/a Classie Tuxedo, Inc. ("Respondent"). Respondent has failed to appear in the action.

On November 12, 2014, Petitioners requested a certificate of Respondent's default, (Docket Entry 6), and the Clerk of the Court certified their default that same day, (Docket Entry 8). On January 30, 2015, Petitioners moved for a default judgment against Respondent. (Docket Entry 11.) On March 31, 2015, the undersigned referred the motion for a default judgment to Magistrate Judge A. Kathleen Tomlinson for a report and recommendation on whether the motion should be granted. (Docket Entry 12.) On August 14, 2015, Judge Tomlinson issued her R&R, recommending that the undersigned grant default judgment against Respondent and award damages in the amount of \$4,347.99, consisting of (1) \$221.55 in interest on unpaid contributions; (2) \$517.28 in liquidate damages; (3) \$2,295.00 in attorneys' fees; and (4) \$1,314.16 in costs and disbursements. (R&R at 32.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen (14) days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Tomlinson's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

For the foregoing reasons, Judge Tomlinson's R&R (Docket Entry 16) is ADOPTED in its entirety and Petitioners' motion for a default judgment (Docket Entry 11) is GRANTED. The Clerk of the Court is directed to enter a default judgment against Respondent in the amount of \$4,347.99, consisting of (1) \$221.55 in interest on unpaid contributions; (2) \$517.28 in liquidate damages; (3) \$2,295.00 in attorneys' fees; and (4) \$1,314.16 in costs and

disbursements. The Clerk of the Court is further directed to mark this matter CLOSED.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 18, 2015
Central Islip, New York